

**MINUTES OF THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

May 13, 1998

DIVISION ONE

B109583 People (Not for Publication)
v.
Serpas

The judgment is reversed. The matter is remanded for the trial court to afford defendant a hearing on his Penal Code section 1538.5 motion to suppress. Should the trial court deny the motion, it is to reinstate the judgment. Should the trial court grant the motion, it is to afford defendant a new trial.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.
Dunn, J. (Assigned)

B115815 People (Not for Publication)
v.
Felix

The matter is remanded for the trial court to impose one-third of the firearm enhancement for each of the two counts of attempted murder. The judgment is modified to give defendant custody credit for 441 days, comprised of 384 days actual and 57 days conduct. The trial court is to issue a new abstract of judgment and is to forward the new abstract to the Department of Corrections. In all other respects, the judgment is affirmed.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.
Dunn, J. (Assigned)

May 13, 1998-Continued

DIVISION ONE (Continued)

B114828 People (Not for Publication)
v.
Cook

The order recusing the Los Angeles County District Attorney's office is reversed. The matter is remanded to the trial court with instructions to deny the defense recusal motion and set the matter for trial.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.
Masterson, J.

B114045 Los Angeles County, D.C.S. (Not for Publication)
v.
Terry D.

The order appealed from (July 10, 1997) is affirmed.

Ortega, Acting P.J.

We concur: Vogel (Miriam A.), J.
Dunn, J. (Assigned)

DIVISION TWO

B114418 People (Not for Publication)
v.
Jeffrey M.

The Court:

The orders under review are affirmed.

Boren, P.J., Fukuto, J., Nott, J.

DIVISION TWO (Continued)

B109106 Ben E. Tomlin (Not for Publication)

v.

E. L. Yeager Construction Company et al.

The judgment appealed from is affirmed.

Nott, J.

We concur: Fukuto, Acting P.J.
 Zebrowski, J.

DIVISION FOUR

B109188 Drain (Certified for Partial Publication)

v.

Betz Laboratories

The judgment is affirmed.

Baron, J.

We concur: Hastings, Acting P.J.
 Czuleger, J. (Assigned)

B113173 Johnson (Not for Publication)

v.

Aames Home Loan

The order denying class certification is affirmed.

Epstein, Acting P.J.

We concur: Hastings, J.
 Czuleger, J. (Assigned)

DIVISION FOUR (Continued)

B105336 Tate (Not for Publication)

v.

Long Beach Hotel Associates

The judgment is reversed with respect to the award of "waiting time" penalties under section 203, and affirmed in all other respects. The parties are to bear their own costs.

Baron, J.

We concur: Hastings, Acting P.J.
 Czuleger, J. (Assigned)

B107599 Schilling (Not for Publication)

v.

Safeco Insurance Company

The judgment of the superior court is affirmed. Respondent is to have costs on appeal.

Epstein, Acting P.J.

I concur: Baron, J.
I dissent: Czuleger, J. (Assigned) (Opinion)

B109416 Seitz (Not for Publication)

v.

Farmers Group

The order denying class certification is affirmed.

Epstein, Acting P.J.

We concur: Hastings, J.
 Czuleger, J. (Assigned)

May 13, 1998-Continued

DIVISION FOUR (Continued)

B104147 Artner (Not for Publication)

V.

Parker, Milliken, Clark, O'Hara & Samuelian

The judgment is reversed on the issue of the proper measure of damages only. The case is remanded for a new trial on damages. The Artners are to have their costs on appeal.

Epstein, Acting P.J.

We concur: Baron, J.
Czuleger, J. (Assigned)

DIVISION FIVE

Court convened at 9:00 A.M.

Present: Turner, P.J., Grignon, J., Godoy Perez, J., and Zaida G. Heraldez, Deputy Clerk.

Each of the following:

B111256 People v. Brown
B114793 People v. Corey B.
B114758 People v. Smith, Jr.
B110751 People v. Dibble
B119959 Jamala M. v. S.C.L.A. (DCS)
B120307 Judith C. v. DCS
B115279 DCS v. Dale & Judith C.
B113524 Pabigian v. Chiang
B114658 People v. Ralph Bryant
B113309 People v. James Hong
B114209 People v. Richard Naham

Argument waived, cause submitted.

DIVISION FIVE (Continued)

B114268 The People
 v.
 Danny Deleon

Merits:
Argued by William L. Heyman for appellant and by Jason C. Tran, Deputy District Attorney, for respondent. Cause submitted.

B111526 Jerry L. Webb
 v.
 Susan Goldberg et al.

Merits:
Argued by James E. Prosser and Sean Riley for respondents and no appearance for appellant. Cause submitted.

B110857 The People
 v.
 Erik Paul Talvensaari

Merits:
Argued by Deborah J. Bishop for appellant and by Jason Tran, Deputy District Attorney for respondent. Cause submitted.

B109569 Judicial Council Coordination Proceedings Lockheed Litigation Cases
 v.
 Robert Orozco et al.
 (Exxon Corporation et al., r.p.i.)

Merits:
Argued by Donald W. Fowler for appellants and by Thomas V. Girardi for respondents. Cause submitted.

DIVISION FIVE (Continued)

B112230 Sharon Jaquith et al.
v.
Angeles CIR Roofing, Inc.

Merits:

Argued by Peter L. Tripodes for appellant and by Alan J. Weil for respondents. Cause submitted.

B113263 Stephen R. Glasser
v.
Edward Glasser

Appearances:

William Patrick Patteron for appellant and no appearance for respondent. Argument waived, cause submitted.

B118280 Muriel Goodwin
v.
Frederick M. Nicholas etc.

Merits:

Argued by Michael G. York for appellant and by Victor H. Jih for respondent. Cause submitted.

B112738 Rene McClain et al.
v.
Michael Anthony Timperio et al.

Merits:

Argued by Thomas M. Morlan for appellants and by Leonard P. Janner for respondents. Cause submitted.

DIVISION FIVE (Continued)

B107465 Villa Lorena Homeowners Assn., Inc.
 v.
 Truck Insurance Exchange

Merits:

Argued by Lisa Perrochet for appellant and by Edward J. Horowitz for respondents. Cause submitted.

Court recessed.

The Court reconvened at 1:00 P.M.

Present: Grignon, Acting P.J., Armstrong, J., Godoy Perez, J., and Zaida G. Heraldez, Deputy Clerk.

B106941 Zawitkoski v. 1120 Associates

Argument waived, cause submitted.

B115430 Dorothy Baptista
 v.
 Los Angeles City Employees Retirement

Merits:

Argued by Michael P. Calof for appellant and by John C. Blair for respondent. Cause argued and submission deferred until June 12, 1998.

B108797 Heritage Engineering Construction, Inc.
 v.
 City of Industry

Merits:

Argued by John C. Goodman for appellant and by Jean Cihigoyenetché for respondent. Cause submitted.

Court adjourned.

DIVISION SIX

Court convened at 9:00 A.M.

Present: Stone, P.J., Gilbert, J., Yegan, J., and G. Bents, Deputy Clerk.

B108877 Union Bank
 v.
 Texaco

Merits:

Matter ordered off calendar. Appeal dismissed pursuant to stipulation and order filed on May 11, 1998.

Each of the following:

B108911 Windom v. Amos

B115772 Leasure v. MSI Ins.

B117162 SanLuis Obispo Co. Dept. Social Services v. Ramon O.

Argument waived, cause submitted.

B107950 Pacific Gas & Electric
 v.
 Maguire

Merits:

Argued by Alson Kemp for appellant Eureka as to the appeal of attorney's fees and by Kent L. Richland for respondents Maguire, et al. Argument waived as to the appeal on the judgment. Cause submitted.

B110634 Housh
 v.
 Santa Barbara County

Merits:

Argued by Melbourne B. Weddle for appellant and by Virginia R. Pesola, Deputy County Counsel, for respondent. Cause submitted.

DIVISION SIX (Continued)

B110718 Steve Bubalo Construction
 v.
 Los Angeles County

Merits:

Argued by Mark C. Hargan for appellant and by Michael S. Simon for respondent. Cause submitted.

B108463 Mission Oaks
 v.
 Santa Barbara County

Merits:

Argued by Kenneth S. Meyers for appellant/cross-respondent Mission Oaks Ranch, by Jan T. Chilton and Philip A. Seymour for respondents Envicom et al., by Mary Newcombe for respondents Storrer, et al. and by Virginia R. Pesola, Deputy County Counsel, for cross-appellant Santa Barbara County. Cause submitted.

Court recessed at 11:25 A.M.

Court reconvened at 1:30 P.M.

Present: Stone, P.J., Gilbert, J., Yegan, J., Coffee, J., and G. Bents, Deputy Clerk.

B117884 Ginchereau
 v.
 High Technology Solutions

Appearances:

Daniel J. Palay for appellant and by Amy T. Wintersheimer for respondent. Argument waived, cause submitted.

DIVISION SIX (Continued)

B115215 Kapelus
 v.
 Tiedt

Merits:

Argued by Marvin B. Kapelus for appellant appearing in propria persona, and by J. Mark Thacker for respondent. Cause submitted.

B118019 Monolakis
 v.
 City of Simi Valley

Merits:

Argued by Beth Shenfeld for appellant and by Byron J. Lawler for respondent. Cause submitted.

B116209 Reed
 v.
 City of Oxnard

Merits:

Argued by Richard A. Weinstock for appellant, by Robert S. Coldren for respondent Ocean Aire and by Andy H. Viets for respondent City of Oxnard et al. Argument previously waived by amicus curiae Golden State Mobilhome Owners. Cause submitted.

B117271 Sesma
 v.
 Naffah

Merits:

Argued by Brent Edward Vallens for appellant and by David Barton for respondent. Cause submitted.

Court recessed at 2:35 P.M.

DIVISION SIX (Continued)

Court reconvened at 2:45 P.M.

Present: Gilbert, Acting P.J., Yegan, J., Coffee, J., and G. Bents, Deputy Clerk.

B111475 Breault
 v.
 Breault

Merits:

Argued by Patrick J. Perry for appellant and by Bernard N. Wolf for respondent. Cause submitted.

B115091 Levine
 v.
 Weis

Merits:

Argued by Glenn J. Campbell for appellant/cross-respondent and by Jackson E. Parham for respondent/cross-appellant. Cause submitted.

B112330 City of Oxnard
 v.
 City of San Buenaventura

Merits:

Argued by Stephanie R. Scher for appellant City of Oxnard, by Katherine E. Stone for respondent City of San Buenaventura and by James W. Colbert, III for respondent MCA Buenaventura. Cause submitted.

Court adjourned at 4:05 P.M.

May 13, 1998-Continued

DIVISION SIX (Continued)

B090092 Rivera
v.
Schlicht

Filed order modifying opinion. Petition for rehearing is denied. (No change in the judgment.)

DIVISION SEVEN

B111121 People (Not for Publication)
v.
Jackson

The judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.
Neal, J.

B115890 People (Not for Publication)
v.
Boyd

The judgment is affirmed.

Johnson, J.

We concur: Lillie, P.J.
 Neal, J.

May 13, 1998-Continued

DIVISION SEVEN (Continued)

B113057 People v. Marcus

(Not for Publication)

The judgment is affirmed.

Johnson, Acting P.J.

We concur: Woods, J.
Neal, J.

B114139 People (Not for Publication)
v.
Michael D.

The judgment is affirmed.

Neal, J.

We concur: Johnson, Acting P.J.
 Woods, J.

B108977 People (Not for Publication)
v.
Ball

The judgment is affirmed.

Neal, J.

We concur: Johnson, Acting P.J.
Woods, J.

B111647 Uslan
v.
Fireman's Fund Insurance Company

Filed order denying petition for rehearing.